

National Television and Computer Recycling Scheme

Compliance Framework

August 2021



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1 Compliance strategy

1.1 Background

The Department of Agriculture, Water and the Environment (the department) works to protect and strengthen our agriculture, water resources, the environment and our heritage, for today and into the future. To support these outcomes, we provide leadership across a variety of issues relating to Australia's waste.

The National Television and Computer Recycling Scheme (the NTCRS) aims to reduce the environmental and human health impacts of end-of-life products and waste material. The program provides households and small businesses with free access to e-waste collection and recycling through approved co-regulatory arrangement services. These services cover televisions, computers, printers, and computer parts and peripherals.

The co-regulatory arrangements are entities approved by the department to facilitate the NTCRS across Australia. The role of the co-regulatory arrangement is to ensure the following requirements are met under the NTCRS:

- Provision of reasonable access to collection services
- Meeting annual recycling targets
- Meeting a material recovery target.

The co-regulatory arrangement also has a responsibility to ensure that adequate governance, financing, communication and health and safety procedures are in place to effectively meet the requirements.

Manufacturers and importers of television and computer products whose importation or production exceeds a set threshold are liable under the scheme and are required to be a member of an approved co-regulatory arrangement. These entities are known as liable parties. Payments by liable parties to co-regulatory arrangements ensure adequate funding is provided to achieve the outcomes under the NTCRS for co-regulatory arrangements.

The department is responsible for administering the NTCRS and ensuring co-regulatory arrangements are compliant with their obligations under the Recycling and Waste Reduction (Product Stewardship – Television and Computers) Rules 2021 (the Rules). Co-regulatory arrangements are responsible for the administration of recycling services and undertake the activities necessary to meet the objectives of the NTCRS. We provide co-regulatory arrangements with support and guidance in relation to these activities.

The nature and profile of the NTCRS presents a wide range of potential compliance risks that may threaten the integrity of the NTCRS. Incidents of non-compliance may weaken public confidence in the NTCRS and in co-regulatory arrangements and may lead to negative environmental or human health outcomes.

1.2 Purpose

The Compliance Framework outlines the principles adopted by the department to encourage, strengthen and enforce compliance within the NTCRS under the *Recycling and Waste Reduction*

Act 2020 (RAWR Act). The Compliance Framework focuses on driving compliance maturity, capability and culture while being appropriately flexible to support effective and efficient administration of the NTCRS and product stewardship requirements.

Product stewardship is defined as a responsibility shared by everyone who imports, designs, produces, sells, uses and disposes of products and materials to reduce the environmental, human and safety impacts of those products and materials.

The Compliance Framework assists the department, co-regulatory arrangements and liable parties to understand their duties, obligations and responsibilities under the NTCRS. The Compliance Framework does not cover exporters of waste material.

This document outlines these responsibilities and obligations as well as the principles and strategies to guide the prevention, detection and response to non-compliance which underpins the integrity of the NTCRS.

1.3 Compliance requirements

The NTCRS operates through the approved co-regulatory arrangements that facilitate free access to e-waste recycling for households and small businesses. Co-regulatory arrangements are also responsible for ensuring e-waste recycling meets the standards listed in the Rules.

The operations of the NTCRS and co-regulatory arrangements are governed by the RAWR Act, the *Recycling and Waste Reduction (Consequential and Transitional Provisions) Act 2020* (RAWRCTP Act) and the Rules.

The RAWR Act includes civil penalty provisions for certain compliance breaches, which are administered and enforced by us in accordance with the Rules.

Note: Under subregulations 11(1) and (4) of the RAWRCTP Act, the old Regulations will continue to have effect until 30 June 2021 and will be repealed at the start of 31 October 2021. The Recycling and Waste Reduction (Product Stewardship – Televisions and Computers) Rules 2021 will be enforced following the repeal of the old Regulations.

1.4 Compliance goals and objectives

Our overall goal is to encourage, strengthen and enforce compliance with the legislative and regulatory requirements of the NTCRS. Through this, we aim to:

- ensure the impact of e-waste on human and environmental health is minimised and maximise the effectiveness of the scheme
- ensure co-regulatory arrangements operate in accordance with the requirements of the NTCRS and are compliant with the RAWR Act and Rules
- promote a collaborative compliance environment between co-regulatory arrangements and the department
- promote a circular economy, as outlined in the National Waste Policy Action Plan, by maximising recycling opportunities and the re-use of recovered materials
- enable the department to prevent, detect and respond to acts of non-compliance with the scheme, in accordance with the relevant legislation and rules.

The department is primarily focused on deterring and preventing acts of non-compliance by approved co-regulatory arrangements and liable parties through education, review activities and audits. We also implement appropriate response strategies towards incidents of non-compliance.

2 Compliance approach

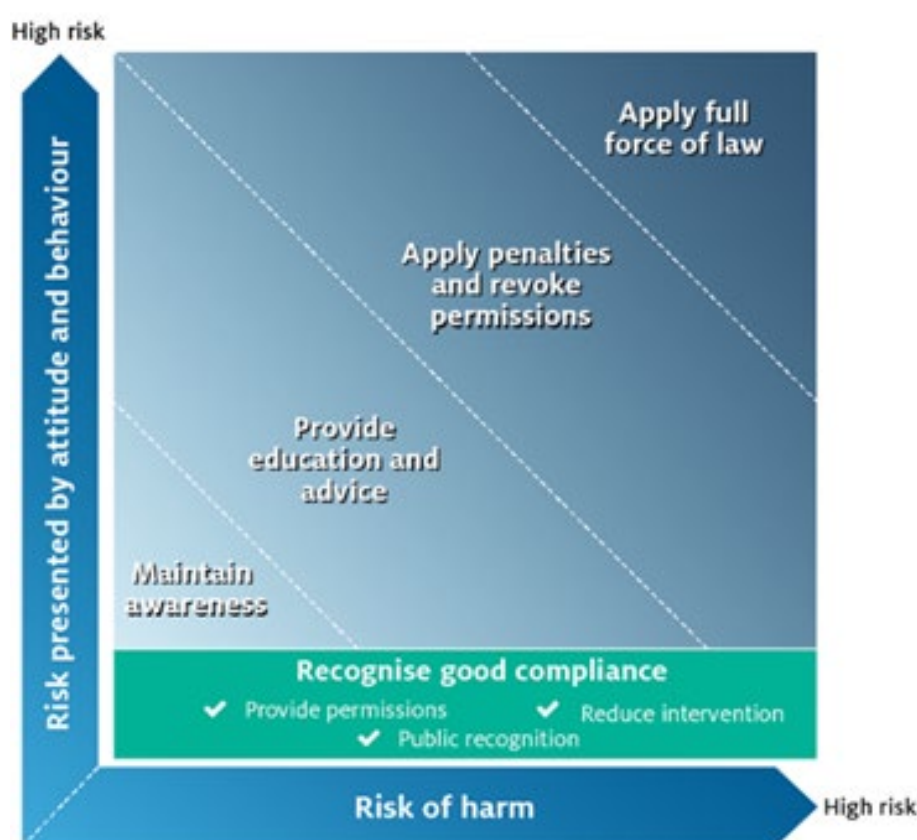
The department acknowledges that most co-regulatory arrangements and liable parties are willing to comply with the requirements of the NTCRS. We work to encourage compliance practices and intervene accordingly when non-compliance is identified.

Our approach aims to promote compliance by co-regulatory arrangements and liable parties through support, education and guidance for those willing to do the right thing. Encouraging compliance under the NTCRS allows us to use our available resources more efficiently and effectively.

We are committed to intervening in and resolving all occurrences of non-compliance identified. We take a risk-management approach to identifying non-compliance (unintentional or deliberate) and enforcing appropriate strategies to prevent and deter non-compliance. Our compliance priorities are set out in Section 2.2 below.

Figure 1 illustrates our approach to managing compliance at various levels of risk posed by attitudes and behaviours. An encouraging approach to compliance will be taken on the lower end of the spectrum, and an enforcement approach on the higher. This allows us to tailor compliance activities relative to the level of risk identified.

Figure 1 Our proportionate compliance response model



Section 4 below further outlines how the compliance approach will be implemented and identifies different strategies for the prevention of, detection of and response to varieties of non-compliance.

2.1 Compliance principles

To effectively administer the NTCRS Compliance Framework, the department is guided by the principles set out by the DAWE Regulatory Practice Statement. In delivering NTCRS regulatory outcomes we ensure our interventions and requirements are framed by the following:

- **Accessibility:** Compliance and enforcement activities for the NTCRS are focused on the effective delivery of recycling services, with accessibility for households and small businesses.
- **Safety:** Compliance and enforcement activities are undertaken to ensure all stages of the collection and recycling process are conducted through a safe approach within the NTCRS.
- **Risk basis:** Compliance and enforcement activities are conducted through a risk-based approach to ensure that resources are effectively allocated towards addressing and resolving serious risks. We evaluate the complexity of each matter to prioritise risks that present a serious threat to the NTCRS. Once we have identified non-compliance, we take necessary enforcement action to minimise the risk so that compliance is maintained and improved.
- **Proportionality:** The decisions we make are proportionate to the severity of the identified risk that impacts the NTCRS.
- **Deterrence:** Decisions relating to compliance and enforcement activities consider the need to take actions that will prevent future instances of non-compliance. We understand that having a range of compliance and enforcement activities creates an effective deterrent to non-compliance. Taking enforcement action to hold entities and individuals accountable when legislative outcomes and requirements are not met can have significant deterrent impacts through demonstrating clear consequences of non-compliance.

2.2 Compliance priorities

We will prioritise addressing deliberate non-compliance and activities with a high risk of negative environmental impacts, whether deliberate or accidental. When dealing with co-regulatory arrangements in relation to acts of non-compliance, we may pursue them and their respective administrators with the authority provided in the RAWR Act and Rules.

To encourage, strengthen and enforce compliance in the NTCRS in accordance with our Compliance Policy, legislative requirements and compliance principles, we will prioritise the following areas:

- Protect the outcomes required to be achieved under the Rules and under section 3 of the RAWR Act:
 - To reduce the impact on human and environmental health of products, waste from products and waste material
 - To realise the community and economic benefits of taking responsibility for products, waste from products and waste material

- To develop a circular economy that maximises the continued use of products and waste material over their life cycle and accounts for their environmental impacts
- To contribute to Australia meeting its international obligations concerning the impact referred to in paragraph (a).
- Protect the environment through ensuring appropriate treatment methods are undertaken for waste from products and waste material
- Protect the health and safety of those impacted by the scheme
- Promote a competitive and efficient market for co-regulatory arrangements to operate
- Provide effective communication and educative resources to encourage and promote voluntary compliance
- Investigate potential incidents of serious non-compliance and fraud within the NTCRS.

3 Compliance governance and risk management

3.1 Documents and artefacts

The Compliance Framework is to be read in conjunction with our broader departmental Compliance Policy and Compliance Framework and our Corporate Plan 2020–21. The Corporate Plan outlines our focus on becoming more digitally enabled and meaningfully engaging with stakeholders to achieve the goals indicated in the plan. The departmental Compliance Policy supports the Compliance Framework by outlining our approach to compliance through better informing the community. It provides an understanding of how we encourage compliance and respond to non-compliance with governing policies and legislation.

The Compliance Framework is an administrative document intended to provide an overview of compliance and enforcement options that are available to address instances of non-compliance, deter non-compliance and encourage voluntary compliance, including within the NTCRS.

3.2 Internal relationships

We use the resources and teams available internally to support the delivery of the Compliance Framework with informed and consistent decision-making across our operations for the NTCRS.

We are also responsible for receiving and assessing all allegations of non-compliance relating to the NTCRS, pursuing compliance action or escalating further if necessary.

3.3 External relationships

We work closely with other regulators and state and territory environmental protection agencies (EPAs) on matters of common interest. Where multiple jurisdictions are involved, we work with those EPAs to ensure a suitable approach is undertaken.

For instances where acts of non-compliance have been escalated and identified as deliberate, we may seek to impose civil penalties in accordance with the RAWR Act or work with the Commonwealth Director of Public Prosecutions to prosecute criminal offences.

4 Compliance activities

We take a risk-based approach to our compliance activities. Our compliance activities may be informed by compliance monitoring, risk assessments, allegations and intelligence. We use the information collected to prioritise our compliance activities and allocate resources to areas of highest risk.

Our risk-based approach seeks to address the more serious risks and systemic non-compliance through the efficient use of resources while avoiding unnecessary costs to the industry, communities and the department.

Compliance activities can assist co-regulatory arrangements and liable parties to understand impending changes to the NTCRS or provide immediate intervention that may address emerging issues. We tailor our compliance activities to the level of risk and proactively respond to changing and emerging risks.

We will support voluntary compliance within the NTCRS while balancing the need to deter unlawful behaviour and undertake corrective actions for non-compliance. This balance is necessary for a sustainable scheme that ensures quality in the operations of co-regulatory arrangements and the services they provide to communities.

4.1 Prevention strategies

Our aim is to implement compliance strategies that deter and prevent actions of non-compliance before they occur. These strategies tend to be cost-effective and non-intrusive and to promote positive collaboration with parties in achieving the outcomes of the NTCRS.

We understand that most co-regulatory arrangements and liable parties are willing and able to comply with the requirements outlined in the relevant rules and legislations. Accordingly, a key aspect of our prevention strategy is to support the facilitation of voluntary compliance and minimise the compliance burden on co-regulatory arrangements where possible.

Where co-regulatory arrangements fail to respond promptly and appropriately to apparent non-compliance, this may result in further action to address non-compliance. Depending on the nature of the non-compliance, this may include audits, improvement notices or enforcing civil/criminal penalties in accordance with the RAWR Act.

4.1.1 Education

We will proactively encourage voluntary compliance and deter non-compliance of co-regulatory arrangements and liable parties through education and communication strategies. We will work collaboratively with co-regulatory arrangements and liable parties to enhance their knowledge of and adherence to requirements. This will include providing resources and guidance material, quarterly newsletters and advice on systems and procedures.

These education measures help to:

- raise awareness of the benefits of complying with NTCRS requirements, and the potential consequences of non-compliance

- remove barriers to compliance (for example, lack of knowledge of requirements or how to comply)
- promote the objects of the RAWR Act
- overcome factors that might encourage non-compliance.

However, the co-regulatory arrangements have primary responsibility to implement effective governance, risk and compliance structures for their stakeholders, including their liable party membership, and should not rely on the education strategies as their primary compliance mechanism. Co-regulatory arrangements also have the primary responsibility to educate recyclers on their compliance obligations.

4.1.2 Industry engagement

We may conduct consultation, collaboration and outreach strategies with industry, regulatory partners and state and territory governments to support compliance within the NTCRS. These strategies help co-regulatory arrangements and liable parties to understand their compliance obligations, support voluntary compliance and provide avenues to report suspected non-compliance.

4.2 Detection strategies

We use a combination of proactive and reactive detection strategies to support compliance. A risk-based approach to compliance monitoring and detection assists us in targeting our resources and detecting potential instances of non-compliance at the earliest possible opportunity.

We also undertake a program of audits, supported by data analysis and monitoring of complaints to detect risks, issues and trends, to assess the compliance of co-regulatory arrangements with their requirements under the NTCRS.

4.2.1 Monitoring

We actively conduct compliance monitoring activities to assess the effectiveness of the co-regulatory arrangements' and liable parties' compliance efforts so that we can identify better practices which may benefit all co-regulatory arrangements.

We gather relevant information and intelligence to assist in detecting potential non-compliance and exploitative behaviour from various sources including:

- review of submitted information in accordance with the RAWR Act and Rules
- information sharing with other regulators including the state and territory EPAs
- review of media and other open-source information available.

This strategy is used to monitor the NTCRS for areas of potential non-compliance. It is also used to assess the seriousness of potential non-compliance detected and determine an appropriate regulatory response.

The compliance monitoring activities for co-regulatory arrangements use the mandatory quarterly and annual reports as a primary source. However, sources such as open-source information and information from other government agencies (such as EPAs) can be used to support monitoring activities.

4.2.2 Tip-offs

We provide a tip-off service to which any allegations or suspected breaches of compliance can be reported. While this service is not exclusive to the NTCRS, it provides an anonymous avenue for all stakeholders of the NTCRS to report on any actions of suspected non-compliance, or any issues that may lead to acts of non-compliance. This tip-off service may receive reports from a range of sources, including other agencies, households and service providers.

If something is unusual or could be a potential environmental or operational risk to the NTCRS, we encourage you to contact us using the details provided in Box 1.

Box 1 Contact details for tip-offs

Report a breach

Email: compliance@environment.gov.au

Phone: (02) 6274 1372 or free call 1800 110 395

Fax: (02) 6274 1878

Website: environment.gov.au/epbc/compliance-and-enforcement/report-a-breach

By post:

Office of Compliance

Environment Standards Division

Department of Agriculture, Water and the Environment

GPO Box 787

Canberra ACT 2601

4.2.3 Special referrals

Any potential breaches of the rules and legislation that guide the NTCRS are brought to our attention in various ways, such as referrals from other regulators and state and territory EPAs.

These matters raised are prioritised but will not be treated differently to other issues in terms of the compliance activity or enforcement. While special referrals receive priority action, we maintain consistency around how matters of non-compliance should be handled.

4.3 Response strategies

Where non-compliance has been identified, we will undertake an appropriate enforcement response to non-compliance. In the first instance, the compliance activity seeks to restore a co-regulatory arrangement or liable party to compliance. However, a stronger enforcement response may be warranted depending on the level of risk posed by the non-compliance and the co-regulatory arrangement's or liable party's behaviour and ability to meet the required outcomes under the NTCRS.

4.3.1 Audits and reviews

The department conducts desktop, light-touch and complete audits to identify potential instances of non-compliance. A risk-based approach is taken for each of our audits and may be

taken in relation to NTCRS requirements and the performance of functions and the exercise of powers under the RAWR Act.

A complete audit conducted by us (or on our behalf) involves the review or assessment of all or part of a co-regulatory arrangement's general operations and risk management or safety management systems. It may also include on-site inspections of collection sites to assess the practical application of these systems. While these audits and reviews commonly occur in set periods as stipulated in the RAWR Act, audits and reviews may also be undertaken in response to matters arising from other compliance activities.

These audits help to ensure that services and procedures that have the potential to cause an environmental or social impact are implemented appropriately and in accordance with the supporting legislation.

4.3.2 Investigations

Where audits, reviews and monitoring indicate that an incident requires escalation, we will undertake investigations into potential non-compliance, especially where co-regulatory arrangements or liable parties have shown a lack of willingness to comply with their obligations to the NTCRS.

Investigations may also require cooperation with other government agencies, which may involve further information-gathering activities to come to an evidence-based resolution.

Investigations occur where sufficient evidence exists of either non-compliance or a serious safety issue. The information gathered is used to identify what happened, the cause of the incident and the responsible party. A range of factors are considered when determining whether a non-compliant incident will be investigated, including:

- the impact the non-compliance has on the environment and human health
- the number of reports received for the non-compliance
- sections of legislation the non-compliance may contravene
- historical evidence of similar incidents involving the same party
- voluntary action taken to resolve the issue.

The investigation process may include (but is not limited to) seeking expert assessments, requesting information, conducting interviews and conducting site inspections. These actions are undertaken with legislative approval (such as monitoring warrants if required).

4.3.3 Administrative remedies/actions

For identified instances of non-compliance, we may pursue a remedy that is designed to provide co-regulatory arrangements with an opportunity to resolve the non-compliance internally within a specified time frame.

Under section 88 of the RAWR Act, an improvement notice may be provided to a co-regulatory arrangement if we have reasonable grounds to believe that the co-regulatory arrangement has not complied with or achieved the outcomes under the RAWR Act and Rules. Should the co-regulatory arrangement fail to address the items in the improvement notice, further responsive action may be taken.

Administrative actions such as improvement notices do not need to go to court to be issued.

A co-regulatory arrangement that is the subject of an administrative action may appeal decisions to us or to the Administrative Appeals Tribunal.

4.3.4 Civil remedies/actions

Civil penalties are included in various sections of the RAWR Act and serve as a disciplinary action for non-compliance by co-regulatory arrangements and liable parties. Although civil penalties are set out similarly to criminal offences, they do not result in imprisonment or criminal convictions.

Civil penalties are generally enforced as a monetary fine that is determined by the penalty units set out in relevant sections of the RAWR Act. Civil penalty action is generally reserved for more serious acts of non-compliance and serves as an economic deterrent to non-compliance in some circumstances. Table 1 provides an outline of sections of the RAWR Act that provide for a civil penalty should compliance not be achieved by co-regulatory arrangements and liable parties.

Table 1 Strict liability offences and civil penalty provisions in the RAWR Act

Section	Description	Strict liability penalty units	Civil penalty units
76	Liable party fails to be a member of a co-regulatory arrangement	60	250
81	The administrator of a co-regulatory arrangement did not take reasonable steps to ensure the outcomes under the NTCRS have been achieved	60	250
82	The administrator of a co-regulatory arrangement did not notify (as soon as practicable) the minister of any of the following events occurring: <ul style="list-style-type: none"> An event that hinders the ability of the arrangement to achieve its outcomes A liable party becoming, or ceasing to be, a member of the arrangement An event prescribed by the Rules 	60	250
83	Failure to comply with requirements to give reports to the minister	60	250
88	Failure to comply with and address improvement notices	60	250
90	The administrator of the co-regulatory arrangement did not provide the minister additional or corrected information that is relevant to the assessment of a co-regulatory arrangement's compliance under the NTCRS Note: the additional or corrected information relates to when a co-regulatory arrangement is aware the initial information provided to the minister was incorrect or incomplete	–	60
92	Failure to take specified action under this section in relation to a specified product Failure to adhere to mandatory product stewardship requirements which may be prescribed by the Rules	120 (fault-based offence)	240
142	The person fails to make and retain records for information outlined by the Rules	60	250
144	The person fails to provide information requested in accordance with the requirements of the Rules	60	250

Section	Description	Strict liability penalty units	Civil penalty units
145	If a person provides false or misleading statements or omits any details that may cause the statement to be misleading	–	600
146	If a person provides false or misleading information or omits any details that may cause the information to be misleading	–	600
147	If a person provides false or misleading documents or omits any details that may cause a document to be misleading	–	600

4.3.5 Criminal remedies/enforcement

At the conclusion of an investigation, if the department suspects that an offence provision has been contravened under the NTCRS, the department may refer the matter to the Commonwealth Director of Public Prosecutions, who may then decide to take further enforcement action.

5 Feedback

The department is committed to continual improvement of its compliance activities within the NTCRS. We are open to receiving feedback on our compliance performance from all sources. If you would like to provide feedback please contact us by sending an email to ewaste@environment.gov.au or call 1800 332 783.

6 Further information

The [Compliance Policy](#) and [Corporate Plan](#), which can be read in conjunction with the NTCRS Compliance Framework, can be found on our website.

For more information about us and the NTCRS, please visit awe.gov.au.

Glossary

Term	Definition
Compliance Framework	National Television and Computer Recycling Scheme Compliance Framework.
Compliance Policy	Department of Agriculture, Water and the Environment Compliance Policy.
Corporate Plan	Department of Agriculture, Water and the Environment Corporate Plan 2020–21.
department	Department of Agriculture, Water and the Environment.
departmental Compliance Framework	Department of Agriculture, Water and the Environment Compliance Framework.
EPAs	Environmental protection agencies.
minister	Minister for the Environment.
NTCRS	National Television and Computer Recycling Scheme.
old Regulations	Product Stewardship (Television and Computers) Regulations 2011.
RAWR Act	<i>Recycling and Waste Reduction Act 2020.</i>
RAWRCTP Act	<i>Recycling and Waste Reduction (Consequential and Transitional Provisions) Act 2020.</i>
Rules	Recycling and Waste Reduction (Product Stewardship – Televisions and Computers) Rules 2021.

References

Department of the Environment 2015, [National Television and Computer Recycling Scheme: the role of co-regulatory arrangements](#), Department of the Environment, Canberra.